



Appeal Decision

by I Stevens BA (Hons) MCD MBA MRTPI

an Inspector appointed by the Welsh Ministers

Decision date: 08/09/2023

Appeal reference: CAS-02726-D2F7N6

Site address: Land west of Fifth Avenue House, Halt Road, Rhigos, Aberdare, CF44 9UN

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by Mr Kieran Buckley against the decision of Rhondda Cynon Taf County Borough Council.
 - The application Ref 22/1400/10, dated 28 November 2022, was refused by notice dated 18 January 2023.
 - The development proposed is detached dwelling house with double garage.
 - A site visit was made on 9 August 2023.
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Decision

1. The appeal is dismissed.

Main Issues

2. The main issues are:
 - whether the proposal complies with planning policies that seek to control the location of new housing development, having regard to the principles of sustainable development; and
 - whether there is sufficient information regarding the means of sewage disposal having regard to public health and the environment.

Reasons

Location of new housing

3. The appeal site comprises a large parcel of land situated off Fifth Avenue. It is located on higher ground than the highway, which runs along the northern and western boundaries of the site. A tree belt defines the site edge, punctuated by an existing access drive that leads up to a stable block which is surrounded by vegetation and scrubland within the site. A guest house is situated to the east, with a farm further west on the opposite side of the highway. The A465 highway runs adjacent to the southern boundary of the site. There are various commercial and industrial-related uses along Fifth Avenue, reflecting

its location in the wider Hirwaun Industrial Estate. Those uses are interspersed with fields and vacant plots. The proposal is for a detached dwelling and garage.

4. In planning policy terms, the appeal site is in the Northern Strategy Area (NSA) outside and detached from the settlement boundaries as defined in the Rhondda Cynon Taf Local Development Plan (LDP), adopted in 2011. The LDP explains that settlement boundaries provide certainty for members of the public and developers about the development limits of urban areas, they maintain the integrity and character of towns and villages and protect the countryside from incremental urbanisation. As such, LDP Policy AW 1 seeks, amongst other things, to direct new housing on unallocated land to locations within defined settlement boundaries.
5. LDP Policy AW 2 supports development proposals on non-allocated sites in sustainable locations, which, amongst other things, include those with good accessibility by a range of sustainable transport options, and good access to key services and facilities, including schools, local shops and services, GPs, dentists, and community facilities. Policy AW 2 also defines sustainable locations as sites in the NSA that accord with policy NSA 12. That policy supports development outside but adjoining settlement boundaries where they satisfy several criteria. The supporting text recognises the contribution of small sites to the housing land bank, but also reiterates that suitable small sites should be bounded on at least one side by a defined settlement boundary.
6. In this case, however, the appeal site is outside of and physically separate from the settlement boundaries, being some distance from the nearest settlement of Rhigos. In the local context, open gaps, boundary features and commercial/industrial development define the area character. It is not residential in nature, with few dwellings nearby. Against this background, the proposed single dwelling on a large site would result in a fragmented form of housing development, which is contrary to the LDP spatial strategy. Neither has any justification been presented to support the proposal as an exception to the general policy restraint on new housing development outside and away from settlement boundaries.
7. The appellant considers that the appeal site has motorised or cycle access to Hirwaun and Rhigos with regular bus routes nearby. While there is a footpath on the opposite side of Fifth Avenue, this feature terminates to the west after the A465 underpass, near Castell Farm. The road then climbs up a hill with no footway provision and narrow grass verges along this unlit and winding section. This route would be unattractive for pedestrians, especially so during darker winter mornings and evenings. The nearest bus services are located along Rhigos Road, to the south of the appeal site. It would be accessed either along the route I have described, or in the opposite direction along Fifth Avenue, at greater distance. I have little information on the bus service timetable or frequency, or whether it represents a feasible option for daily transport needs. Similarly, there is no evidence of accessible key services and facilities in the area.
8. The appellant suggests that Fifth Avenue is part of the designated cycle network, however, no evidence has been presented in support of this statement. From my site visit observations, I could see no evidence of any cycle routes or active travel measures in this area.
9. Given the aims of local and national planning policies which seek to reduce reliance on the private car and increase walking, cycling and use of public transport, the appeal site's separation from and distance to settlements would not encourage sustainable modes of travel to and from the appeal site. Future occupants would therefore be heavily reliant on the private car for journeys to shops, school, work, medical services, and leisure facilities.

10. I understand that the appeal site was, in part, a gypsy and traveller site for several years, and there is an extant permission for caravan storage. Notwithstanding the history and past occupation of the site, my decision is based on the relevant housing policies in the adopted development plan, which remains in use for the purposes of determining planning applications. None of the arguments put forward outweigh the fundamental concern about the principle of new residential development in this location, outside and away from settlement boundaries which form the basis for planned housing growth in the LDP. The ad hoc nature of the proposal would also undermine sustainable development principles embedded within national and local planning policy. Consequently, the proposal is contrary to LDP Policies AW 1, AW2, and NSA 12, and the general thrust of active travel advice set out in Planning Policy Wales (PPW), Edition 11, February 2021.

Sewerage

11. The appellants indicate that foul sewage would be disposed of via a septic tank. PPW advises that non-mains sewage proposals should be subject to an assessment of their effects on the environment, amenity, and public health in the locality. No such assessment has been provided. Natural Resources Wales advise that the proposal is in a publicly sewered area, and PPW supports foul sewer connections where it is reasonable to do so. This approach is supported by Welsh Government Circular 008/2018 which sets out the criteria-based approach towards private sewerage in new development. However, the appellant has not provided any further evidence to support the use of a septic tank.
12. Notwithstanding the appellant's reference to the presence of other septic tanks nearby, in the absence of the necessary information, I am unable to conclude that the proposal would not have an adverse effect on public health or the environment, as sought by PPW, Circular 008/2018, and LDP Policy AW 10. Neither would it be appropriate to secure such provision by planning conditions, without having first established if a septic tank or other form of private sewerage disposal would be suitable.

Other Matters

13. I note the consultation response from the Council's Ecologist, received during the appeal process, which raises concern with the lack of ecological assessment, having considered the biodiversity potential of the appeal site. Given my findings on the main matters, I do not find this to be a determining issue in the appeal.
14. The appellant refers to pre-application discussions with the Council regarding residential or commercial development at the appeal site. Notwithstanding the scope and detail of advice provided, in this instance it has not affected my consideration of the planning merits of the case, which I have considered having regard to the development plan.

Conclusion

15. For the reasons given above and having regard to all matters raised, I conclude that the appeal should be dismissed.
16. In reaching my decision, I have taken into account the requirements of sections 3 and 5 of the Well-Being of Future Generations (Wales) Act 2015. I consider that this decision is in accordance with the Act's sustainable development principle through its contribution towards one or more of the Welsh Ministers' well-being objectives.

I Stevens

INSPECTOR